THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.10445 OF 1998

DATED: 12.12.2007

Between:

R. Bikshapathy

.. Petitioner

And

District Cooperative Officer,
Nalgonda and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.10445 OF 1998

ORDER:

This writ petition is filed seeking a Mandamus declaring the impugned letters, dated 26.02.1998 and 31.03.1998, in Rc.No.ADM/A.6/F.329/95, addressed by the 2nd respondent, directing the 3rd respondent to revert the petitioner from the post of Secretary to that of Clerk by transferring him to PACS, Addagudur, and to effect recovery of pay from him, as illegal, arbitrary, without jurisdiction and violative of Articles 14 and 16 of the Constitution of India.

2. Under the impugned letter, dated 26.02.1998, the 2nd respondent informed the 3rd respondent that petitioner was illegally appointed as Secretary and, on noticing the same, his appointment was cancelled, but he was continuing as Secretary, as per the interim directions issued by this Court in the writ petitions filed by him and other similar employees. Further, since the said writ petitions filed by the petitioner and other persons were dismissed, the 3rd respondent was directed not to continue the petitioner as Secretary and continue him in the place where he worked prior to 06.01.1992, the date of his appointment as de-caderised Secretary. Subsequently, another letter, dated 31.03.1998, which is also impugned in this writ petition, was

addressed by the 2nd respondent to the 3rd respondent stating that though there was no mention about payment of wages in the interim directions granted by the Court, the 3rd respondent has fixed a timescale and paid wages to the petitioner. Hence, he was directed to recover the wages from the petitioner and credit them to Society. While so, the grievance of the petitioner is that, since the writ petition filed by him and other persons was dismissed on the ground that it was a premature one, the 2nd respondent directed the 3rd respondent to revert him from the post of Secretary to that of a Clerk and to recover the wages paid to him, in the capacity of Secretary, which is arbitrary and illegal.

3. There is no necessity of going into all the details.

4. The impugned letters do not indicate that the petitioner was put on notice as to the proposed reversion and recovery of pay. Neither any enquiry was conducted nor any notice, such as a show cause notice, asking the petitioner to explain as to why he should not be reverted and recovery of pay should not be effected, was issued. Thus, the action of the 2nd respondent in issuing such directions to the 3rd respondent, under the impugned letters, is in gross violation of principles of natural justice, and, hence, the impugned letters are liable to be set aside.

5. Accordingly, the writ petition is allowed, setting aside the impugned letters, dated 26.02.1998 and 31.03.1998, addressed by the 2nd respondent to 3rd respondent. No costs.

JUSTICE C.V. RAMULU

12th December, 2007.

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